(2012) 06 KL CK 0242

In the High Court Of Kerala

Case No : R.P. No''s. 335 and 336 of 2011 in S.T. (Rev.) No''s. 275 and 265 of 2008

P.P. Alphonsa APPELLANT

Vs

State of Kerala RESPONDENT

Date of Decision : 14-06-2012

Acts Referred:

Citation : (2012) 54 VST 459

Hon'ble Judges : C.N. Ramachandran Nair, J;C.K. Abdul Rahim, J

Bench : Division Bench

Advocate : S. Anil Kumar Trivandrum, for the Appellant; Sojan James, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

C.N. Ramachandran Nair, J.—Heard senior counsel Sri A.K. Jayasankar Nambiar who appeared for the review petitioners and also special Government for the respondents. The review petitions are filed to review the judgment for the reason that liability u/s 7(1)(a), i.e., payment of tax at compounded rates should be with reference to the preceding year''s tax liability as reduced by exemption available under notification SRO No. 1090/1999. On a plain reading of section 7(1)(a) it is clear that tax payable under the said provision is 200 per cent of the highest amount from among the following: (1) Tax payable by the dealer as conceded in the return.

(2) Tax payable based on accounts for the immediately preceding year.

(3) The tax paid for the immediately preceding year.

It may so happen that the dealer would have conceded tax payable in the return at variance with the tax payable based on turnover of sales and purchases available in the accounts. So much so the liability is the higher amount of tax payable between the two. Tax paid by the dealer as referred to in item 3, obviously is the tax liability as reduced by all exemptions available to the dealer.

Even though the appellant''s contention that tax paid in the preceding year is also to be reckoned for the purpose of determining liability for payment of tax under the compounding scheme u/s 7(1)(a), is correct, it happens to be lower than the tax payable based on the accounts that is tax payable on sales turnover and purchase turnover disclosed from the accounts. So much so the demand of tax based on accounts being the highest is absolutely correct. The review petitions are therefore dismissed as devoid of any merit.

